IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 51 of 2001.

Date of Decision: 3-12-2007.

State of H. P. Appellant.

Versus

Narinder Singh. Respondent.

Coram

Hon'ble Mr. Justice Surinder Singh, J.

Whether approved for reporting[1]? No.

For the appellant : Mr. V.K. Verma, Addl. Advocate General.

For the respondent : Ms. Meena Thakur, Advocate vice Shri Rahul Mahajan, Advocate.

Surjit Singh, J. (Oral)

The respondent was acquitted by the trial Court under Section 279 and 337 of the Indian Penal Code against which the instant appeal has been filed.

Heard and gone through the record.

Precisely, the case of the prosecution is that on 20-3-1991, private Bus bearing No. HP 13-0306 was being driven by PW Padam Singh. It was bound to Solan from Chail. When it reached near the place known as "Shilaro" a Maruti Van No. HR 37-294 which was being driven by the respondent allegedly in a rash and negligent manner, came from the opposite side. On seeing the Bus, he did not stop but hit the bus on its side on the curve and he himself sustained simple injuries and became unconscious. The Police was telephonically informed about the accident. The respondent was taken to the Hospital for his treatment. Dharampal Head Constable visited the spot and recorded the statement of Padam Singh Bus Driver under Section 154 of the Code of Criminal Procedure, prepared the site plan, took the photographs and also took into possession the broken splinters from the spot. Mechanical examination of both the vehicles was got

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Whether reporters of the Local papers are allowed to see the judgment? Yes.

conducted. Case was registered against the respondent. He was sent up for trial before the trial Court and was charge-sheeted to which he denied.

In order to prove its case, the prosecution examined its witnesses and the respondent was also examined under Section 313 of the Code of Criminal Procedure. He pleaded innocence and alleged false implication in the case. After hearing the parties and perusing the record, learned trial Court acquitted the respondent.

His acquittal has been challenged in the instant appeal filed by the State. The Bus Driver (PW1) Padam Singh in order to corroborate the case of the prosecution has stated that on seeing the bus coming from the opposite side, in a high speed, he applied his breaks but the van driver did not stop his vehicle and it struck against the bus and the respondent sustained injuries. He informed the Police and his statement Exhibit PW1/A was recorded. Both the vehicles were taken into possession. DW2 Dewan Singh has stated that he was the occupant of the Bus and the respondent was driving his van in a very high speed. Bhupinder Singh (PW3) has stated that the van was taken into possession in his presence. PW4 Chinta Mani had examined both the vehicles mechanically. PW5 Navin Kumar took the photographs. PW6 Ram Pal is a witness to the recovery of driving license Exhibit PW6/A. PW7 Mohammad Aslam is the owner of the Maruti van. PW8 Abhishek has stated that he was also the occupant of the Bus on that day but he did not state that on seeing the van on the curve, the bus driver had applied its breaks and halted it. He has made a very important statement in his cross-examination that he did not know whether the van had hit the bus near the rear tyre or some where else but he admitted that the speed of the van was very slow and also stated that the Drivers of both the vehicles were negligent to some extent. PW10 Dharam Pal Head Constable is a witness to the recovery of the glass splinters which were taken into possession vide Memo Exhibit PW8/A. In his cross-examination, he has stated the Bus Driver and the Conductor were present there on the spot and except them, no body else was there but they had detained

the two witnesses Dewan Singh and Abhishek who were the local residents of the place which was near to the accident, he did not taken into possession their bus tickets to lend arguments to their statements whether they in fact were traveling in the said bus.

On the strength of the aforesaid evidence, the trial Court has concluded that since the Police officer aforesaid, has admitted that only the Bus Driver and the conductor were present on the spot when he arrived there and the witnesses aforesaid were the acquaintance of the bus driver, this did not over rule the possibility that the bus driver had removed the bus from the actual site of the accident as the glass splinters were lying scattered to the whole length of the bus till the rear tyre. Thus, the trial Court also concluded from the evidence on record, that there were chances of changing of spot position as none from the side of the respondent present.

On the close scrutiny of the evidence aforesaid, in my view, the learned trial Court has rightly concluded that the prosecution could not prove the case against the respondent beyond reasonable doubt despite the fact that the respondent did not explain as to how the accident has occurred in his statement under Section 313 of the Code of Criminal Procedure. The conclusion arrived at by the trial Court is plausible on the strength of the above discussed evidence. Accordingly, the appeal is dismissed. The respondent is discharged of his bail bonds entered upon by him at any point during the proceeding of the case. The matter is accordingly disposed of.

(Surinder Singh)
Judge.

December 3, 2007.
(bm)